

1 JOSEPH HARRINGTON  
2 United States Attorney  
3 Eastern District of Washington  
4 Stephanie Van Marter  
5 Caitlin Baunsgard  
6 Assistant United States Attorney  
7 Post Office Box 1494  
8 Spokane, WA 99210-1494  
9 Telephone: (509) 353-2767

10 UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF WASHINGTON  
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 vs.

16 JUAN BRAVO ZAMBRANO,

17 Defendant.

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)  
) 2:15-CR-6049-EFS-19  
)  
) United States' Response to  
) Defendants Motion to  
) Suppress Evidence (ECF 621)  
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19 Plaintiff, United States of America, by and through Joseph H. Harrington,  
20 United States Attorney, for the Eastern District of Washington, Stephanie Van Marter  
21 and Caitlin Baunsgard, Assistant United States Attorneys for the Eastern District of  
22 Washington, submits the following Response to Defendant's Motion in Suppress  
23 evidence obtained from the search of his residence. *See*, ECF 621.  
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1 Defense seeks to suppress the evidence obtained from the search of a vehicle  
2 and hotel rooms that took place in Grand Forks British Columbia Canada by the Royal  
3 Canadian Mounted Police (RCMP). The United States responds as follows.  
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5 **I. BACKGROUND**

6 On August 23, 2015, Ivan Calvillo arranged for a cash drop in Vancouver B.C.  
7 as well as the delivery of one kilogram of heroin. This time Javier Camillo Gomez  
8 Calvillo, a.k.a. Angel was sent to make the money drop. The meet was audio/video  
9 recorded. Angel was driving a blue Mercedes registered to a residence associated  
10 with Sobieda Reynosa (previously identified by the RCMP as a girlfriend/associate of  
11 an identified leader/organizer in the Vancouver area). Angel delivered \$74,029 in  
12 Canadian currency to the Canadian Under Cover (CUC) and a kilogram of heroin to  
13 the CUC. After the DEA Under Cover (UC) withdrew the percentage charged for  
14 laundering the money, Calvillo directed the DEA UC to wire the remaining funds to  
15 accounts in Mexico.  
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19 Based upon the identification of the blue Mercedes and Gomez Calvillo, the  
20 RCMP followed the activities of Gomez Calvillo. They identified a residence where  
21 the blue Mercedes traveled to. While conducting surveillance, the blue Mercedes was  
22 seen departing the residence where it was followed up to the Grand Forks B.C. area,  
23 an identified location associated with this organization and backpacking narcotics  
24 across the border. The RCMP followed the Mercedes to the Ramada Inn and identified  
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1 that Reynosa registered for a room at the hotel. On August 26, 2015, the RCMP was  
2 conducting surveillance at the hotel and observed the aforementioned Mercedes leave  
3 the hotel at approximately 5:00am occupied by Reynosa and Gomez Calvillo. *See*,  
4 Attachments A and B (filed under seal).  
5

6 Surveillance confirmed its travel toward the border but then lost sight of the  
7 vehicle for approximately 15-20 minutes. When the vehicle was located again, it was  
8 coming back toward the hotel, this time with 5 occupants. The RCMP could then seize  
9 the Mercedes and occupants at any time because they violated the Immigration &  
10 Refugee Protection Act by concealing individuals into the country without going  
11 through the proper immigration channels. *Id.* The Mercedes returned to the hotel  
12 where the five occupants entered room 203. A short time later, the vehicle departed  
13 the hotel again, this time with four occupants. A traffic stop was initiated and all  
14 occupants were arrested for aiding and abetting anyone to enter Canada illegally and  
15 being an illegal foreign national in Canada under the Immigration and Refugee  
16 Protection Act (IRPA). The driver was identified as Sobieda Reynosa the passengers  
17 were identified as Co-Defendants Juan Bravo Zambrano, Marciel Zambrano and  
18 Javier Camilo Gomez Calvillo. *Id.*  
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1 Search warrants were obtained by the RCMP for the vehicle and the hotel  
2 rooms at the Ramada Inn<sup>1</sup>. *See*, Attachment A (filed under seal). On August 27,  
3 2015, the Canadian search warrant was executed on the vehicle. Upon execution of  
4 the Canadian search warrant, inside a secret compartment in the vehicle, RCMP  
5 located approximately 18 kilograms of methamphetamine, 4 kilograms of cocaine,  
6 171 grams of heroin, \$50,000 in U.S. currency, two loaded firearms, ammunition,  
7 several backpacks, walkie talkies, jackets and one cellular phone. A search warrant  
8 was also obtained for the two hotel rooms identified as utilized by these individuals at  
9 the Ramada Inn. Located inside the room was Defendant Miguel Reyes Garcia who  
10 was confirmed to be the fifth person seen earlier in the car.  
11

12 It was further confirmed that the general location where the Mercedes traveled  
13 to at 5:00 a.m., returning with three additional passengers, correlates directly with a  
14 trail head location utilized by the Calvillo Drug Trafficking Organization (DTO).  
15 Inside the motel room agents seized the Defendant's wallet, a receipt and multiple  
16 cellular telephones.  
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24 <sup>1</sup> The Information in support of the search warrant, what we call an affidavit, was  
25 sealed by the Canadian judicial authority and remains sealed at this time. However,  
26 for purposes of this response, the RCMP obtained permission to disclose and has  
27 provided the affidavit attached hereto.  
28

1 The controlled substances were tested in Canada and later by the DEA  
2 laboratory and returned with the following results: (1) 16,606 grams of actual  
3 methamphetamine; (2) 2,005 kilograms of cocaine and (3) 99.3 grams of heroin.  
4  
5 Subsequent fingerprint testing of the packages of controlled substances revealed many  
6 fingerprints to include several belonging to the Reyes Garcia.

7 The cash drop that took place on August 23, 2015, was observed and recorded  
8  
9 by the RCMP. All actions that took place after that cash drop were wholly directed  
10 and conducted by the RCMP with no United States agency involvement.

## 11 II. ARGUMENT

### 12 A. Defendant does not have standing to challenge the stop of the vehicle or 13 search of the vehicle or the hotel rooms.

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15 The Fourth Amendment does not apply to acts of foreign officials when Federal  
16 agents are not involved. In *Stonehill v. United States*, the Court observed that “neither  
17 the Fourth Amendment to the United States Constitution nor the exclusionary rule of  
18 evidence, designed to deter Federal officers from violating the Fourth Amendment, is  
19 applicable to the acts of foreign officials.” 405 F.2d 738, 743 (9th Cir. 1968); *United*  
20 *States v. Verdugo-Urquidez*, 856 F.2d 1214, 1224-25 (9th Cir. 1988), rev’d on other  
21 grounds, 494 U.S. 259 (1990). “Because the Fourth Amendment does not itself  
22 require exclusion of unlawfully obtained evidence, and because excluding reliable  
23 evidence will not force foreign officers to abide by the norms of the Fourth  
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1 Amendment, the exclusionary rule has no application to searches conducted solely by  
2 a foreign government. *Verdugo-Urquidez*, 856 F.2d at 1224-25.

3 As has been provided through discovery from the RCMP, the entirety of this  
4 stop, the investigation and the seeking authorization to search was done by the RCMP  
5 without any involvement from United States Agents. Even when the target of the  
6 search is American, “Fourth Amendment principles do not apply to searches by  
7 foreign authorities in their own countries, even if the targets of the search are  
8 American.” *United States v. Rose*, 570 F.2d 1358, 1361 (9th Cir. 1978).  
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10 The Defendant has failed to articulate any United States government influence  
11 or presence in the follow-up investigation that occurred in Grand Forks. Although it  
12 is true that the RCMP was assisting in the cash money drops and the money  
13 laundering aspect of the investigation, all the follow up investigations that occurred in  
14 Canada were solely done by the RCMP. The Defendant therefore has no basis to  
15 challenge the search warrant or seek its suppression.  
16

17 Even if Defendant makes a successful assertion that Federal agents were  
18 involved, which he has not, Defendant’s arguments fail on a fourth amendment  
19 analysis. Even if this Court were to apply fourth amendment standards to the actions  
20 of the RCMP, the stop of the vehicle and subsequent search warrants were supported  
21 by probable cause. *See*, Attachments A and B (filed under seal).  
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1 First, the Defendant alleges no possessory or ownership of the blue Mercedes or  
2 hotel rooms which eviscerates his standing to challenge their search. *United States v.*  
3 *Diaz-Castaneda*, 494 F.3d 1146, 1150 (9th Cir. 2007) (citing *Rakas v. Illinois*, 439  
4 U.S. 128 (1978)). Fourth Amendment rights are personal, and cannot be asserted  
5 vicariously. *Rakas*, 439 U.S. at 128. As noted earlier, RCMP observed a cash money  
6 drop of almost \$75,000 and a kilogram of heroin to their CUC using the blue  
7 Mercedes. Then, RCMP observed the Mercedes commit a violation of the  
8 Immigration & Refuge Protection Act, giving RCMP two different fronts to stop the  
9 vehicle. This is unavailing to Defendant, because after the initial cash drop by Angel,  
10 RCMP was following him in the Mercedes, and the subsequent action resulting in the  
11 discovery of contraband were directed at Angel, not the Defendant. Defendant can  
12 only challenge the stop and even if the analysis rested on U.S. law (which the United  
13 States asserts it does not because it was an act done solely by foreign officials, *see*  
14 *supra*), the RCMP had reasonable suspicion to stop the Mercedes.  
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20 The Defendant challenges the stop of his vehicle and subsequent arrest yet fails  
21 to articulate his basis other than to somehow argue the basis of the stop was unclear.  
22 To the contrary, as noted in Attachments A and B (filed under seal), the traffic stop  
23 was based upon the totality of the circumstances of the investigation, the same  
24 information with which the search warrants were sought. It appears that at the time of  
25 the traffic stop, the RCMP had made the determination to go ahead and apply for  
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1 search warrants, thus the stop was made to preserve the vehicle and any evidence  
2 therein in anticipation of the search warrant. Upon further confirmation that the  
3 occupants were not Canadian citizens, they were arrested as articulated in Attachment  
4 B (filed under seal). Even if those decisions had not been made to seek warrant at the  
5 time, the stop would have been supported as a *Terry* stop.  
6

7       A brief investigatory stop may be conducted when an officer has a reasonable,  
8 articulable suspicion that criminal activity is afoot. *Illinois v. Wardlow*, 528 U.S. 119,  
9 123 (2000). The *Terry* stop is a brief, minimal intrusion, and simply allows the officer  
10 to investigate further. *Id.* at 126. Reasonable suspicion is a less demanding standard  
11 than probable cause and requires a showing that is considerably less than  
12 preponderance of the evidence. *Id.* at 123. The Court in *Terry v. Ohio* “recognized that  
13 a law enforcement officer’s reasonable suspicion that a person may be involved in  
14 criminal activity permits the officers to stop the person for a brief time to take  
15 additional steps to investigate further.” *Hiibel v. Nevada*, 524 U.S. 177, 185 (2004).  
16 “A *Terry* stop involves no more than a brief stop, interrogation and, under proper  
17 circumstances, a brief check for weapons.” *United States v. Miles*, 247 F.3d 1009,  
18 1012-13 (9th Cir. 2001). The point of the stop is to allow the police to investigate.  
19 *Gallegos v. City of Los Angeles*, 308 F.3d 987, 991 (9th Cir. 2002). Here, the RCMP  
20 conducted a stop on the vehicle based upon well-grounded suspicion it was involved  
21 in criminal activity which included he aiding and abetting of illegal entry into Canada.  
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1 Given the circumstances as a whole and as laid put in the affidavit, there was  
2 more than sufficient probable cause to ultimately search the vehicle and the hotel  
3 rooms.  
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5 **CONCLUSION**

6 The United States respectfully submits the Defendant motions to suppress the  
7 evidence be denied.  
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9 Dated: February 20, 2018.  
10

11 JOSEPH H. HARRINGTON  
12 United States Attorney

13 s/ Stephanie Van Marter  
14 Stephanie Van Marter  
15 Assistant United States Attorney  
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17 **CERTIFICATE OF SERVICE**

18 I hereby certify that on February 20, 2018, I electronically filed the foregoing  
19 with the Clerk of the Court using the CM/ECF system which will send notification of  
20 such filing to the following:  
21

22  
23 Richard A. Smith, [rasmith@house314.com](mailto:rasmith@house314.com)

24 s/ Stephanie Van Marter  
25 Stephanie Van Marter  
26 Assistant United States Attorney  
27  
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